

Applicant: Sedillo Neighborhood Business Center, LLC

Agent: Jon Anderson Architect

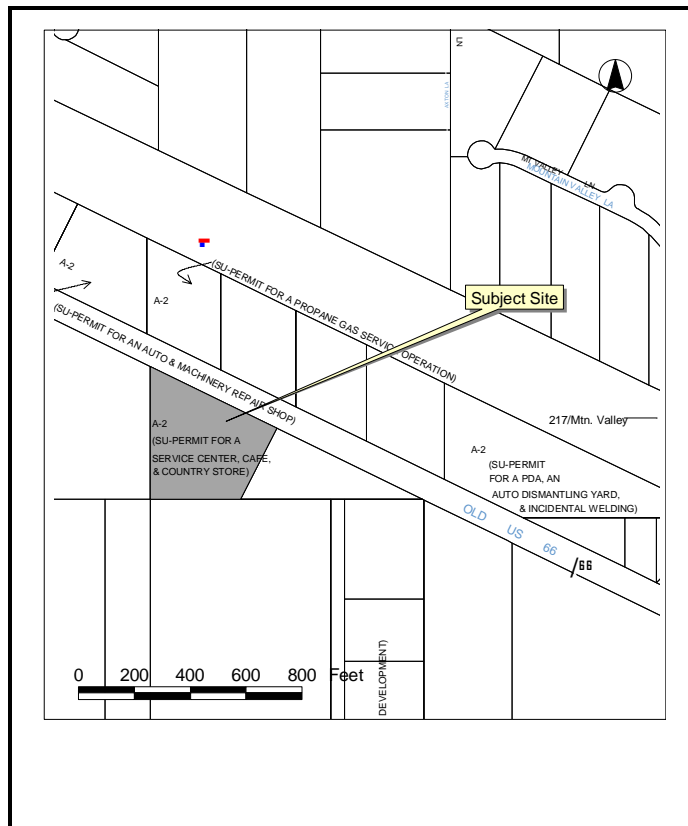
Location: 1328 Old US 66

Property Size: Approximately 3.4 acres

Existing Zone: A-2 with a Special Use Permit for a Service Center, Café, and Country Store

Proposed Request: Special Use Permit for Specific Uses to include apartments, café, office, retail store business or shops.

Recommendation: Deferral



Summary: The applicant is requesting a Special Use Permit for the specific uses of apartments, café, office, retail store business or shops for establishment of live/work spaces and retail/office space. This property shares a Special Use Permit for a Service Center, Café, and Country Store with the property immediately to the east.

The case is continued from the September 7, 2005 CPC hearing to allow for the applicant to provide additional neighborhood support, justify the request based on Resolution 116-86, and address the wastewater system.

Staff Planner: Mari Simbaña, Program Planner

- Attachments:**
1. Application
 2. Land Use and Zoning Map
 3. Letters of Opposition From Neighbors
 4. Revised Response to Resolution 116-86
 5. Notification of Decision (September 12, 2005)
 6. Request to Continue Hearing
 7. Additional Letter of Opposition From Neighbors
 8. Site Plan (Commissioners Only)

Bernalillo County Departments and other interested agencies reviewed this application from November 15, 2005 to December 5, 2005.
Agency comments were used verbatim in preparation of this report, and begin on page 11.

AGENDA ITEM NO.: 4
County Planning Commission
January 4, 2006

CSU-50014 Jon Anderson Architect, agent for Sedillo Neighborhood Business Center, LLC, requests approval of a Special Use Permit for Specific Uses for Retail Store Business or Shop (Section 15.B.2.a(5)), Apartments, Restaurants, Retail Sales (Section 14.B.12. a-m, o-r), and Office on Tract A1, LD-88-51, Lands of Wayne Dow, located 1328 Old US 66, approximately ¼ mile west of NM 217, zoned A-2 with a Special Use Permit for Service Center, Café, and Country Store, containing approximately 3.40 acres. (J-35) (CONTINUED FROM THE SEPTEMBER 7, 2005 HEARING)

AREA CHARACTERISTICS AND ZONING HISTORY
Surrounding Zoning & Land Uses

Site	Zoning	Land Use
	A-2/Special Use Permit for Planned Development Area	Vacant
North	A-2	Residential
South	A-2	Residential
East	A-2	NM 217 Residential
West	A-2	Residential

BACKGROUND:

The Request

The applicant is requesting a Special Use Permit for the establishment of retail/office and live/work spaces in the East Mountain Area. The subject site of approximately 3.4 acres is vacant. There are a number of businesses presently in operation on the adjacent (approximately) 1.9-acres property. There is currently a request for a Special Use Permit (CSU-50019) for said adjacent property. The primary function of the lofts is to offer living quarters for potential business owners to be in close proximity to their place of work.

On July 6, 1988, the County Planning Commission denied a request for a zone from A-2 to C-1 on a 4.33 acre property. The applicant filed an appeal on July 20, 1988. At the Board of County Commission hearing of August 16, 1988, the appeal was upheld and the commissioners granted a Special Use Permit for a service center, café, and country store. In the same year, this property was subdivided into two separate properties (LD-88-51). Since that time, these two adjacent properties have shared one Special Use Permit (CZ-88-35) with two different owners.

Request Justification

The proposed uses increase the opportunity for neighborhood scale, small businesses to develop in the East Mountain Area. According to the applicant, office/retail spaces will be closest to Old Highway 66, while live/work spaces will be behind these. The applicant states that, "The intent is to provide local artisans with an attractive live/work environment or allow current businesses that work out of their homes a space to expand and separate work from their main residence and still provide home like facilities". The applicant expresses that the proposed use on the subject site would create a transitional zone between the Old Highway 66 commercial uses and the residential properties to the south.

Surrounding Land Use and Zoning

To the north of the subject site runs Old Highway 66. Across this highway there is a vacant, A-2 zoned property with a Special Use Permit for a propane service operation (CSU-85-73). The residential properties south of the subject site are zoned A-2. Horse stables and training grounds are located on the eleven-acre property directly to the west of the subject site. Immediately east is the property that shares the existing Special Use Permit for a service center, café, and country store with the subject site. Approximately one mile northwest of the site are a cluster of C-1 zoned properties.

APPLICABLE PLANS AND POLICIES:

Albuquerque/Bernalillo County Comprehensive Plan

Policy 3 The stated Goal of the Rural Area is "to maintain the separate identity of Rural Areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns." The following includes applicable policies:

Policy 3.a. of the Rural Area Goal states that “higher density development may occur at appropriate locations. Rural Area density patterns shall be more specifically defined through lower rank planning. Each higher density area is to be controlled by site development plan and is to be located well away from other such higher density areas.”

Policy 3.b states that “Development in Rural Areas shall be compatible with natural resource capacities, including water availability and capacity, community and regional goals and shall include trail corridors where appropriate.”

Policy 3.f states that “Development shall be carefully controlled in the East Mountain Area to prevent environmental deterioration, and to be compatible with the resource base and natural recreational and scenic assets.”

Policy 3.g states that “the following shall guide industrial and commercial development in the Rural Areas.”

- Small-scale, local industries, which employ few people and may sell products on the same premises, are the most desirable industrial use.
- Neighborhood and/or community-scale rather than regional scale commercial centers are appropriate for rural areas. Strip commercial development should be discouraged and, instead, commercial development should be clustered at major intersections and within designated mountain and valley villages.”

Policy 6 Economic Development goal is, “to achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.”

Policy 6.a states that, “New Employment opportunities which will accommodate a wide range of occupational skills and salary levels shall be encouraged and new jobs located convenient to the areas of most need.”

Policy 6.b states that, “Development of local business enterprises as well as the recruitment of the outside firms shall be emphasized.”

Policy 6.g states that, “Concentrations of employment and Activity Centers should be promoted in an effort to balance jobs with housing and population and reduce the need to travel.”

East Mountain Area Plan Goals and Objectives

Land Use Section, Page 12-13

Goal: To promote development that retains the unique character of the East Mountain Area - *Objective 11c* states that, “Neighborhood and/or community scale commercial uses, rather than regional-scale commercial centers, are appropriate for rural areas. Strip commercial

should be discouraged, and where possible, commercial development should be constrained to areas that are designated as appropriate for commercial development.”

- *Objective 11e* states that, “Commercial growth and development should be consistent with policies that retain the rural character of the East Mountain Area.”

Environment, Page 13

Goal: To maintain and improve the existing visual quality of the East Mountain Area

Objective 4: Encourage the use of building materials that are in harmony with the landscape, minimize the alteration of existing vegetation and topography on building sites, and minimize the visibility of buildings and incidental structures.

Rural Character Page 37:

“Some more specific characteristics of the East Mountain Area follow: ... Locally-owned and operated commercial enterprise providing distinctive locally produced products to a wider market. “

“It is important to the East Mountain Area residents that rural character be preserved. People who choose to live in rural areas typically do so from an attachment to the different lifestyle available, an appreciation of the natural character of the area, and a belief that this character is important to preserve.”

Policies and Recommendations Page 74

Land Use #4 Commercial development should occur in the commercial nodes identified on the Transportation Network and Commercial Nodes Map or in Master Plan areas approved by Bernalillo County.

Land Use #10. New employment uses shall be of an appropriate scale to meet the needs of the area residents and not degrade the environment.

Bernalillo County Zoning Ordinance

Resolution 116-86 defines criteria for evaluating a Zone Map changes and Special Use Permit applications.

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted Bernalillo County Zoning Ordinance.

- A. A proposed land use change must be found to be consistent with the health, safety and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan of other Master Plans and amendments thereto including privately developed area plans which have been adopted by the Board of County Commissioners.

- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
 - 1. An error in the original zone map.
 - 2. Changed neighborhood conditions, which justifies a change in land use or
 - 3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the Board of County Commissioners.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- H. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
 - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- I. A zone change request, which would give a zone different from the surrounding zoning to a strip of land along a street, is generally called a "strip zoning." Such a change of zone may be approved only when:
 - 1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

Section 18. Special Use Permit Regulations.

- A. By Special Use Permit after receipt of a recommendation from the Bernalillo County Planning Commission, the Board of County Commissioners may authorize the location of uses in any zone in which they are not permitted by other sections of this ordinance; the

Bernalillo County Commission may likewise authorize the increase in height of buildings beyond the limits set by previous sections of this ordinance. With such permits, the Bernalillo County Commission may impose such conditions and limitations as it deems necessary:

1. To ensure that the degree of compatibility of property uses which this section is intended to promote and preserve shall be maintained with respect to the special use on the particular site and consideration of existing and potential uses of property within the zone and the general area in which the use is proposed to be located;
2. To ensure that the proper performance standards and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to become, obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;
3. To preserve the utility, integrity and character of the zone in which the use will be located, without adversely affecting adjacent zones; and
4. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

In certain situations based on unique conditions, and where there is evidence of substantial support from the affected neighborhood residents and/or property owners within 100 feet, a Special Use Permit may be recommended for approval by the Board of county Commissioners for any of the specific uses set forth in Section 12, 13, 14, 15, 16, 17, and 18 of the Bernalillo County Zoning Ordinance. The Special Use Permits may be considered by the County Planning Commission only after it has been determined that the requested zone is inappropriate, and that unique conditions and substantial neighborhood support exist.

Section 19: Landscaping and Buffer Landscaping Regulations:

Where a nonresidential zone which is hereafter developed for a business purpose abuts a residentially zoned property, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

A. Landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are exempt.

1. Sites of one acre or less:
 - a. There shall be a landscaped setback along all streets of no less than ten feet.
 - b. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.

- c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback shall contribute toward this requirement.
- 2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets of no less than 15 feet. All other requirements same as 1.b. and 1.c. above.
- B. In a nonresidential zone, a solid wall or a solid fence at least six feet high shall be erected on sides abutting a single family residential use, except for those sides abutting public right-of-way.
- E. Landscaping which dies shall be replaced by the property owner who is obligated to provide it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-day period falls at a time of the year when planting of landscaping is inadvisable, a waiver may be granted by the Zoning Administrator to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the County Zoning Office.
- G. Parking spaces within a parking lot shall be no more than 50 feet from a tree.
- H. Nonconforming Landscaping. Premises which, when they were developed, were not required to be developed in accordance with the Landscaping and Buffer Landscaping Regulations Section of this ordinance, shall be made to conform with this regulation within two years due to the amendment of the map or text of this ordinance.

ANALYSIS:

Surrounding Land Use and Zoning

All of the surrounding properties are zoned A-2. Some of the properties to the north of the subject site between Old Highway 66 and I-40 have Special Use Permits for commercial uses. The nearest C-1 zoned property is approximately three quarters of a mile northwest of the subject site.

Plans

The request aims to follow the *Albuquerque/Bernalillo County Comprehensive Plan* recommendation of small scale, locally owned industries. The subject site is in a commercial corridor as designated in the *East Mountain Area Plan* (1992). However, it is possible that the uses, some of which are not clearly defined, all together could be too intense for the area.

Zoning Ordinance

The requested Special Use Permit is for uses that fall in the C-1 and C-2 zones. The studio spaces, labeled as "warehouse" on the site plan, could accommodate various commercial uses except those falling under M-1 or M-2 zoning. The applicant would have to have currently existing C-1 or C-2 zoning, to request specific uses under M-1 or M-2 zoning. Section 18.B.32 requires substantial support of the request by neighbors living within 200 feet of the site. The

establishment of more spaces for local businesses is consistent with Resolution 116-86 in that it provides the community with needed opportunities for employment, goods, and services.

Agency Comments

Zoning comments reveal the lack of adequate number of paved off-street parking. An additional suggestion is made that the proposed uses are intense enough to constitute a zone change request. Future water and waste water systems must comply with all New Mexico and Bernalillo County Environmental Health ordinances. A Traffic Impact Analysis is requested by the New Mexico Department of Transportation.

Analysis Summary

Resolution 116-86	The proposed uses would be more advantageous to the community by providing the continuance of a locally-owned and operated business will provide employment, goods, and services needed by local residents.
Requirements	Vegetation must be established to provide an adequate landscape buffer to the adjacent residential properties
Plans	
Comprehensive Plan	The request fulfills goals of the Comprehensive Plan of encouraging a small-scale, locally-owned and operated industry that complements residential areas and reduces the need to travel
Area Plan	<p>The proposed office and retail uses conform to the East Mountain Area Plan in that they maintain a community scale commercial use and promotes locally-owned and operated business.</p> <p>The loft/studio spaces are a new concept to the East Mountain Area. Future uses for the studio are unknown.</p>
Other Requirements	
Environmental Health	Site must have permitted and approved water and wastewater systems to accommodate proposed uses.

Conclusion

Resolution 116-86 requires that a land use change must clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan. Albuquerque/Bernalillo County Comprehensive Plan policies (Rural Area Policy 3g; Economic Development Policy 6a, 6b, 6g) states that small-scale, local industries are desirable and call for these uses to be located so as to complement residential areas and

be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments. The location and proposed uses do not appear to conflict with these policies. However, letters from two neighborhood associations indicate the opposition of this application due to the inappropriateness of the studio/loft combination structures. A deferral of this case would give the applicant and neighborhood representatives time to meet and determine what kinds of uses and intensity would be appropriate.

Additional Staff Comments January 4, 2006

Since the County Planning Commission hearing of September 7, 2005, the applicant has been working on addressing CPC's requests as outlined in the Notification of Decision (Attachment 4). The applicant has submitted a revised response to Resolution 116-86 and a revised site plan. The proposed wastewater system is shown on the site plan and labeled as 'Proposed Septic Tank and Drain Field'. There is no existing wastewater system on the property now. The applicant has met with the representatives from the concerned neighborhood associations. The changes made by the applicant include eliminating one of the Loft/Workspace buildings, limiting the number of dwelling units to six, requiring each dwelling unit to be incorporated into a workspace, reducing the height of one of the Live/Workspace building from 20 to 14 feet, and moving the buildings to be at least 50 feet away from adjacent properties. Together, they have drafted a list of acceptable uses that can occur on the site. Three neighborhood associations and one family have sent letters of opposition. Although they like the proposed café and office/retail, their primary area of concern is the density created by the live/work spaces and is not appropriate for a rural area.

The applicant must revise the site plan to show a 15 foot landscape buffer to the front of the property. This correction will affect the number of parking spaces causing the applicant to place these spaces elsewhere on the property or decrease the square footage of building space.

RECOMMENDATION:

Staff recommends deferral.

Mari Simbaña
Program Planner

BERNALILLO COUNTY DEPARTMENT COMMENTS

Environmental Health:

Sewer and or water infrastructure shall be constructed or financially guaranteed prior to final plat sign off.

The water system is subject to the regulations of the New Mexico Environment Department Drinking Water Bureau and the Office of the State Engineer.

This includes any and all permitting and licensing through the OSE and Bernco EH Office and may be subject to water analysis testing.

A Waste Water system meeting the most current requirements of the Bernco Environmental Health Waste Water Ordinance will be required at time of development.

This includes all units, residential and commercial.

An engineered waste water system design shall be submitted to Bernco EH Office and this same system shall be approved for use and permitted by Bernco EH Office.

11/28/05

Latest site plan describes the idea of "septic tank" will be provided for the entire development. To date no design or existing wastewater system has been declared to be located and operating on-site. Provide detailed information on the system currently on-site and what you propose for the future design to the EH Office of Bernalillo County.

Provide a water availability statement from Entramosa Water co-op.

Fire:

11/16/05

Approval and/or occupancy pending approved water supplies for fire protection.

Fire hydrants are generally installed according to spacing criteria that varies according to proposed land use. These hydrants may be required to be supplemented with additional hydrants when actual development takes place.

Two additional Fire Hydrants to be installed per BCFD FMO office.. Location to be determined.

Zoning Department Manager:

Must comply with below listed comments.

There are no zoning violations on this property.

Shall comply with the East Mountain Lighting Ordinance.

Shall comply with the Sign Ordinance

Site plan as submitted does not indicate the amount of landscaping provided and required.

Off- Street parking requirements are not met as per plan provided, Off-street parking indicates that there are 108 spaces provided, however a deduction cannot be taken off from Loft/Warehouses uses/125 required. Also there is no handicapped parking provided for the the warehouse/loft areas. The off-street parking requires all open parking spaces for C-1 Uses to provide a durable surface consisting of concrete or bituminous material, not indicate and/or shown on site plan.

Shall comply with other applicable zoning ordinances that apply to this proposed project.

8/15/05

Must comply with below listed comments. Shall comply with previous comments from first submittal.

As presently proposed for changes, it appears that a C-N Zone change would be more appropriate, rather than a special use approval. The use as proposed is more intense. No other adverse comments on zoning.

11/21/05

Must comply with below listed comments.

The landscape plan is still inadequate. The landscape buffer is not inside the property line. The buffer landscaping fronting the street is not adequate, it shall consist of seventy five percent of vegetative ground cover.

Shall comply with other applicable zoning regulations for this project.

Building Department Manager:

Corrections listed below must be corrected for approval:

1. Building permits will be required for all proposed structures. Commercial Permits of this magnitude require a General Contractor (GB-98) and a Design Professional (NM Lic. Architect) to submit plans to the County for compliance check of all applicable County Ordinances/Standards.

Public Works:

DRAN:

1. A grading and drainage plan is not required at this time as a condition of approval of this special use permit request.

2. A grading and drainage plan, prepared by an engineer licensed in the State of New Mexico, approved by Bernalillo County Public Works Division is required of the entire site prior to any development.

DRE:

1. Contact NMDOT regarding access issues prior to development.
2. A traffic impact analysis maybe required by NMDOT.
3. Construction plans for all facilities and/or improvements under Bernalillo County jurisdiction or within Bernalillo County right-of-way must be submitted to Bernalillo County Public Works Division for approval prior to construction.
4. All road improvements must meet BCPWD Standards.
5. County permits must be obtained from Bernalillo County Public Works Division (Raileen Bierner at 848-1529) at least 48 hour prior to commencing work.

Parks & Recreation:

12/5/05

No adverse comments at this time.

Sheriff's: No comment received

COMMENTS FROM OTHER AGENCIES

MRGCOG:

5/12/05

No comment.

12/7/05

No comment

AMAFCA:

5/6/05

No comment

11/29/05

No comment

City Planning Department:

No comment received

City Public Works:

Transp. Planning: No comment received

Transp. Development: No adverse comments (no significant impact to City's roadway system).

Water Resources: No comment received

City Transit:

12/5/05

No objection

ABCWUA Utility Development Section

No adverse comments.

City Environmental Health:

No comment received

City Open Space:

5/10/05

No adverse comment.

12/6/05

No adverse comment.

NM Department of Transportation

5/10/04

A Traffic Impact Analysis (T.I.A.) will be required to determine the impact to the State Road system as well as mitigation measures.

12/9/05

-A Traffic Impact Analysis (T.I.A.) will be required to determine the impact to the State Road system as well as mitigation measures.

-A State driveway permit will be required for access to the State Road.

-The permitting process shall be followed to obtain the permit.

Albuquerque Public School:

No comment received

Village of Tijeras:

No comment received

NEIGHBORHOOD ASSOCIATIONS:

East Mountains District 5 Coalition

Sedillo Road Greater Neighborhood Association

FINDINGS:

1. This is a request for a Special Use Permit for Specific Uses for Retail Store Business or Shop (Section 15.B.2.a(5)), Apartments, Restaurants, Retail Sales, and Office on Tract A1, LD-88-51, Lands of Wayne Dow, located 1328 Old US 66, approximately ¼ mile west of NM 217, zoned A-2 with a Special Use Permit for Service Center, Café, and Country Store, containing approximately 2.9 acres.
2. The property is within the Rural Area as designated by the Albuquerque/Bernalillo County Comprehensive Plan.
3. This request is consistent with Resolution 116-86, in that this land use is more advantageous to the community in that it encourages a small-scale, locally-owned and operated industry that complements residential areas and reduces the need to travel as articulated in Policies 3.g, 6.a, 6.b & 6.g of the Albuquerque/Bernalillo County Comprehensive Plan.
4. This request is consistent with the (East Mountain Area Plan, Land use goal/objective 11c; Land Use policy #10) in that it maintains a community scale commercial use and continues a locally-owned and operated business.
5. Site plan does not demonstrate adequate landscaping for the site in accordance with the Bernalillo County Zoning Ordinance, Section 19: Landscaping and Buffer Landscaping Regulations.

CONDITIONS:

1. In the event of future residential uses developed adjacent to the subject site, a solid fence at least six feet high shall be erected within 120 days from the date of residential construction and shall be erected on sides abutting any residential uses.
2. Lighting shall be site-specific. Shielded or cutoff fixtures shall be provided so that no fugitive light crosses to adjacent lots.
3. No outdoor speakers or amplified sound systems shall be permitted.
4. The applicant shall submit a revised site plan showing a 15 foot landscape buffer at the front of the property to the Zoning Administrator within 30 days from the date of final Board of County Commissioners approval.
5. The applicant shall submit a revised site plan showing no more than ____ dwelling units to the Zoning Administrator within 30 days from the date of final Board of County Commissioners approval.

6. The applicant shall submit to the Zoning Administrator, a revised site plan consistent with the conditions of this special use permit. These changes shall be submitted within 30 days from the date of final Board of County Commissioners approval.
7. The applicant shall comply with all applicable Bernalillo County ordinances and regulations.
8. The Special Use Permit shall be issued for ten (10) years.
9. The foregoing Conditions shall become effective immediately upon execution or utilization of any portion of the rights and privileges authorized by this Special Use Permit, and shall be strictly complied with within one year.